

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JESUS OROZCO ARROYO,

Petitioner,

v.

WARDEN CLAIR DOLL, *et al.*,

Respondents.

No. 4:19-CV-00490

(Judge Brann)

(Chief Magistrate Judge Schwab)

ORDER

NOVEMBER 19, 2019

Jesus Orozco Arroyo, an individual currently detained by the United States Department of Homeland Security, Immigration and Customs Enforcement, filed this 28 U.S.C. § 2241 petition challenging his order of removal from the United States and seeking a bond hearing pending the completion of his removal proceedings.¹ After several rounds of supplemental briefing,² on October 10, 2019, Chief Magistrate Judge Susan E. Schwab issued a Report and Recommendation recommending that this Court grant in part and deny in part Arroyo's petition.³

Chief Magistrate Judge Schwab recommends denying Arroyo's claims related to his order of removal.⁴ However, relying on the United States Court of Appeals

¹ Doc. 1.

² Docs. 6, 7, 9, 11, 15.

³ Doc. 17.

⁴ *Id.* at 9-10.

for the Third Circuit’s decisions in *Diop v. ICE/Homeland Security*⁵ and *Chavez-Alvarez v. Warden York Cty. Prison*,⁶ Chief Magistrate Judge Schwab recommends granting the petition to the extent that Arroyo seeks a bond hearing.⁷ No timely objections were filed to this Report and Recommendation.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.⁸ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁹ After reviewing the record, the Court finds no error—clear or otherwise—in Chief Magistrate Judge Schwab’s conclusion this Court lacks jurisdiction to consider a challenge to Arroyo’s order of removal, or in the recommendation that this Court direct an immigration judge to conduct a bond hearing in accordance with *Chavez-Alvarez*. Consequently, **IT IS HEREBY ORDERED** that:

1. Chief Magistrate Judge Susan E. Schwab’s Report and Recommendation (Doc. 17), is **ADOPTED**;

⁵ 656 F.3d 221, 233 (3d Cir. 2011).

⁶ 783 F.3d 469, 478 (3d Cir. 2015).

⁷ Doc. 17 at 11-22.

⁸ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

⁹ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

2. Respondents Simona Flores, Ronald D. Vitiello, and Kirstjen Nielsen are **DISMISSED** from this action;
3. Arroyo's 28 U.S.C. § 2241 petition (Doc. 1) is **DISMISSED** in part and **GRANTED** in part. The petition is dismissed for lack of jurisdiction to the extent that it seeks review of Arroyo's underlying order of dismissal, but granted to the extent that Arroyo seeks a bond hearing; and
4. Within twenty-one days of the date of this Order, the Government **SHALL PROVIDE** Arroyo a bond hearing at which it "bears the burden of proving that his continued detention is necessary to fulfill the purposes of the detention statute."¹⁰
5. The Clerk is directed to close this case.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge

¹⁰ *Diop*, 656 F.3d at 233.